

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

WO KIT CHENG,

Defendant.

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:
: AMENDED
: PRELIMINARY ORDER OF
: FORFEITURE/
: MONEY JUDGMENT

: S2 19 Cr. 039 (JMF)

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WHEREAS, on or about June 28, 2019, WO KIT CHENG (the "defendant"), among others, was charged in two counts of a sealed four-count Superseding Indictment, S2 19 Cr. 039 (JMF) (the "Indictment"), with conspiracy to traffic in contraband cigarettes, in violation of Title 18, United States Code, Section 371 (Count One); and trafficking in contraband cigarettes, in violation of Title 18, United States Code, Sections 2342 and 2 (Count Two);

WHEREAS, the Indictment included a forfeiture allegation as to Count Two of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 2344(c) and Title 28, United States Code, Section 2461(c), and Title 49, United States Code, Section 80303, of any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense charged in Count Two of the Indictment; any and all contraband cigarettes or contraband smokeless tobacco involved in the offense charged in

Count Two of the Indictment; and any and all aircraft, vehicles and vessels used to transport, conceal, possess, or facilitate the transportation, concealment, receipt, possession, purchase, sale, exchange or giving away, of contraband cigarettes involved in the offense charged in Count Two of the Indictment, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count Two of the Indictment that the defendant personally obtained;

WHEREAS, on or about July 24, 2019, the defendant pled guilty to Count Two of the Indictment, pursuant to a plea agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Count Two of the Indictment and agreed to forfeit, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 2344(c) and Title 28, United States Code, Section 2461(c), and Title 49, United States Code, Section 80303, a sum of money equal to \$5,062,938.04 in United States currency, representing the amount of proceeds derived from the offense charged in Count Two of the Indictment;

WHEREAS, on or about July 25, 2019, the Court entered a Consent Preliminary Order of Forfeiture/Money Judgment (the "Order of Forfeiture") ordering the entry of a Money Judgment against the defendant in the amount of \$5,062,938.04 in United States currency;

WHEREAS, the Government asserts that \$1,238,060 in United States currency represents, the amount of proceeds traceable to the commission of the offense charged in Count Two of the Indictment, that the defendant personally obtained;

WHEREAS, the Government seeks a money judgment in the amount of \$1,238,060 in United States currency, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), representing proceeds traceable to the commission of the offense charged in Count Two of the Indictment that the defendant personally obtained; and

WHEREAS, the Court finds that as a result of acts and/or omissions of the defendant, the proceeds traceable to the offense charged in Count Two of the Indictment that the defendant personally obtained cannot be located upon the exercise of due diligence.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. As a result of the offenses charged in Count Two of the Indictment, to which the defendant pled guilty, a money judgment in the amount of \$1,238,060 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offense charged in Count Two of the Indictment

that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, WO KIT CHENG, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Marshals Service, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number.

4. The United States Marshals Service is authorized to deposit the payments on the Money Judgment in the Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to Title 21, United States Code, Section 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Preliminary Order of Forfeiture/Money Judgment, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. Upon entry of this Amended Preliminary Order of Forfeiture/Money Judgment the Consent Preliminary Order of Forfeiture/Money Judgment filed on July 25, 2019 shall be vacated.

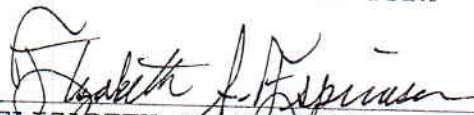
9. The Clerk of the Court shall forward three certified copies of this Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

10. The signature page of this Amended Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York


By:


ELIZABETH A. ESPINOSA
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2216

12/11/2019
DATE


WO KIT CHENG

By:


WO KIT CHENG

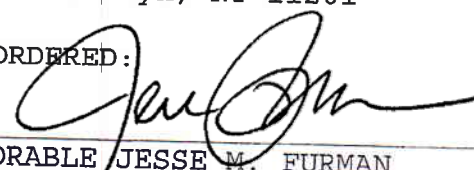
12/11/19
DATE

By:


MICHAEL SHEINBERG, ESQ.
Attorney for Defendant
50 Court Street, Suite 702
Brooklyn, NY 11201

12/11/19
DATE

SO ORDERED:


HONORABLE JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE

12/12/19
DATE